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Paper No. 12

John Moettelli
Bugnion S A
Case 375
Geneva CH-12-11 G CH SWITZERLAND

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Sauer et al. :
Application No. 09/526,783 :
Filed: March 16, 2000 : ON PETITION
Title of Invention: :
INVALIDATING DEVICE FOR :
PERFORATING PLANE OBJECTS :

This is a decision on the Second Request for Refund of Erroneous Petition for Request to Withdraw Holding of Abandonment, filed February 3, 2004. The petition is properly treated as a petition under 37 CFR 1.181.

This Petition is hereby dismissed.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A Final Rejection was mailed in this application on September 24, 2002. A Notice of Abandonment was mailed on June 18, 2003. Applicant filed a Request (Petition) to Withdraw the Holding of Abandonment on July 8, 2003, wherein Applicant argued that a timely response to the Final Rejection was filed. That petition was dismissed in a Decision mailed July 23, 2003, wherein Applicant was advised that the response to the Final Rejection failed to place the application in condition for allowance. The Decision also noted that Applicant had been notified that the response to the Final Rejection failed to place the application in condition for allowance, in an Advisory Action, mailed December 30, 2002.

Applicant subsequently, on August 15, 2003, filed a petition to revive the application on the basis of that the abandonment was unintentional. The August 15, 2003 petition was dismissed by this Office in a Decision mailed October 20, 2003, because Applicant had failed to provide the required reply to the Final Rejection.

["a"] change of purpose after the payment of a fee, such as when a party desires to withdraw a patent or trademark filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

Applicant has failed to demonstrate that the filing of the petition to revive the application was a mistake. Applicant initially filed a response to the Final Rejection on December 18, 2002. Thereafter, Applicant filed the continuing application that Applicant argues obviated the need to revive the instant application. After filing the continuing application, Applicant filed a petition to withdraw the abandonment of the of the instant application. When the petition to withdraw the holding of abandonment was denied, applicant sought to revive the application. Applicant made two attempts to revive the application after filing the continuing application which, Applicant argues, obviated the need for the instant application; the first attempt was to withdraw the abandonment of the application, the second attempt was the petition to revive the application. This Office acted on both petitions, and Decisions were mailed addressing Applicant's arguments in both petitions. For Applicant to now argue that the filing of the petition, for which this Office charged the fee of \$1300.00, was a mistake, is not supported by the actions of Applicant.

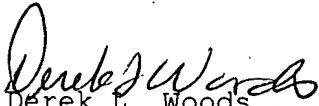
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.


Derek L. Woods
Petitions Attorney
Office of Petitions